

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SUBREGION 33**

AMERICAN RED CROSS BLOOD SERVICES,  
BADGER-HAWKEYE REGION<sup>1</sup>

Employer

and

Cases 33-UC-174  
and 33-UC-175

WISCONSIN COUNCIL 40, AMERICAN FEDERATION  
OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES,  
AFL-CIO

Petitioner

**REGIONAL DIRECTOR'S DECISION AND ORDER**

The Employer, American Red Cross Blood Services, Badger-Hawkeye Region, is a health care institution engaged in the collection and distribution of blood products in Iowa and Wisconsin. The Petitioner, Wisconsin Council 40, American Federation of State, County, and Municipal Employees, AFL-CIO, filed two petitions with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to accrete certain employees at the Employer's Waterloo, Iowa facility into two existing collective bargaining units at the Employer's Dubuque, Iowa facility currently represented by the Petitioner. A hearing officer of the Board held a hearing and the parties filed briefs with me.

The petition in Case 33-UC-174 seeks an accretion to the non-professional unit, which encompasses all employees at the Employer's Dubuque facility excluding RNs, LPNs, temporary employees as defined in the contract, professional employees, confidential employees, guards, managers, and supervisors. The non-professional unit consists of 12 employees in the following classifications: four mobile unit assistant II's, four collection

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<sup>1</sup> The Employer's name appears as amended at the hearing.

technicians (phlebotomist), one collections secretary, one administrative assistant, one donor recruitment department assistant, and one apheresis telerecruiter. Petitioner seeks to accrete nine employees from the Waterloo facility into this unit. These employees include four collection specialist I's (phlebotomist), two mobile unit assistant II's, one apheresis and blood services office assistant, one hospital services courier, and one hospital services technician I.

The petition in Case 33-UC-175 seeks an accretion to the professional unit at the Employer's Dubuque facility. This unit consists of 19 registered nurses and 9 licensed practical nurses, all classified as either collection specialist I-RN (CSI-RN) or collection specialist I-LPN (CSI-LPN). Petitioner seeks to accrete the five CSI-RNs and seven CSI-LPNs at the Employer's Waterloo facility into this unit.

The Petitioner, contrary to the Employer, contends that the petitioned-for accretions are appropriate. The Petitioner contends that changes in staffing, management, and scheduling at the Waterloo and Dubuque facilities have created a shared community of interests among the employees at the two facilities sufficient to warrant accretion. The Employer contends that the Waterloo employees have historically been excluded from the Dubuque units and that the changes are not sufficiently recent or substantial so as to overcome the historic exclusion.

I have considered the evidence and the arguments presented by the parties with respect to both petitions. As discussed below, I have concluded that clarification of the units is not warranted because the Waterloo employees have historically been excluded from the Dubuque units and the changes cited by Petitioner are insufficient to overcome the historic exclusion of the Waterloo employees. Accordingly, I am dismissing both petitions.

## **I. OVERVIEW OF OPERATIONS**

The Employer is part of the Bio-Medical Services Division of the American Red Cross, which is subdivided into areas, including the North Central Area. The North Central Area consists of eight regions, including the Employer herein – the Badger-Hawkeye Region. The Employer has four main fixed facilities within its regional boundaries. The regional

headquarters are located at the Madison, Wisconsin facility. The other fixed facilities are located in Green Bay, Wisconsin; Dubuque, and Waterloo, Iowa. The Dubuque and Waterloo facilities are approximately 90 miles apart and are the only facilities involved here.<sup>2</sup>

The Dubuque facility is divided into two departments, Collections and Donor Recruitment. The Donor Recruitment department recruits blood donors as well as businesses and organizations to sponsor mobile blood drives on their premises. The Collections department employees, i.e. collection specialists, collection technicians, and mobile unit assistants, collect blood from the donors at the fixed sites and on mobile blood drives and transport product and equipment to and from the mobile sites. The Waterloo facility has these departments plus the Apheresis and Hospital Services departments. The Waterloo Collections department employees perform the same tasks as their counterparts in Dubuque. The collections specialists assigned to the Apheresis department also collect blood but utilize a different process involving apheresis machinery which draws the blood and separates the component parts.<sup>3</sup> The Hospital Services department is responsible for storing and distributing blood to hospitals and other customers.

## **II. COLLECTIVE BARGAINING HISTORY**

In 1998, the Petitioner filed a petition in Case 33-RC-4281 seeking a unit of the professional and non-professional employees at the Employer's Dubuque facility. The Employer sought to include the Waterloo employees. On April 22, 1998, the Regional Director issued a Decision and Direction of Election finding the unit limited to the Dubuque facility appropriate and ordered elections for the professional and the non-professional employees at the Dubuque facility only.<sup>4</sup> The elections were held and the professional employees selected the Petitioner as their collective bargaining representative and the non-professional employees

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<sup>2</sup> The employees at the Wisconsin facilities are currently represented in units separate from Dubuque.

<sup>3</sup> Some collection specialists in the Collections department in Dubuque also perform apheresis.

<sup>4</sup> I take administrative notice of the Decision and Direction of Election issued in 33-RC-4281/Units A & B. The Regional Director ordered a self-determination election for the professional unit.

did not. The appropriate certifications issued on September 23, 1998.<sup>5</sup> In 1999, the Petitioner filed a petition in Case 33-RC-4442, again seeking to represent the non-professional employees at the Dubuque facility. The parties stipulated to an election and the Petitioner was certified as the representative of the non-professional employees on October 22, 1999.<sup>6</sup>

The Employer and Petitioner have negotiated three successive contracts covering the professional unit, the most recent of which is effective from November 1, 2005 to October 31, 2008. The Employer and Petitioner have negotiated two successive contracts covering the non-professional unit, the most recent of which is effective from November 1, 2003 to October 31, 2006. With the exception of the apheresis and blood services office assistant position, which was created relatively recently, the other positions sought to be accreted have been in existence since the certifications and the duties of those positions have not significantly changed. The Petitioner has never contended during bargaining for these units that the Waterloo employees should be accreted to either of the Dubuque bargaining units.

### **III. CHANGES TO THE BARGAINING UNITS**

In about June 2004, the Employer laid off or fired many of the employees in Waterloo. The record does not reflect the reason or the exact number of employees, however, it appears that one secretary from the Apheresis department, one mobile unit assistant, and a significant number of nurses were laid off leaving only three nurses and an unknown number in the other classifications. Since that time, however, the numbers of Waterloo employees have increased to current levels, which include 12 collection specialists and 4 collection techs.

Also in about June 2004, the overall supervisor at Waterloo was demoted to a team supervisor and a Dubuque team supervisor was promoted to the newly created position of district manager, with responsibilities over both facilities. The record does not reflect the exact

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<sup>5</sup> I take administrative notice of the Certification of Representative issued in 33-RC-4281/Unit A for the professional unit and the Certification of Results for the non-professional unit issued in 33-RC-4281/Unit B.

<sup>6</sup> I take administrative notice of the Certification of Representative issued in 33-RC-4442.

nature of the district manager's duties and responsibilities, only that she attends periodic staff meetings and hires employees for both facilities. Hiring decisions had previously been made at regional headquarters. The district manager has no authority to discharge employees or to issue discipline, these functions, as well as other core labor relations functions, have always been handled by regional headquarters in Madison.

The demoted Waterloo supervisor continued to schedule the Waterloo employees until her retirement in about June 2005. Upon her retirement, the Dubuque collections secretary was assigned to do the collections scheduling for both Waterloo and Dubuque. The record does not reflect how the employees in other departments are scheduled or whether that has changed.

Prior to these changes, the record establishes that each facility had separate first-line supervision and an overall supervisor who reported directly to regional headquarters in Madison. The creation of the district manager over the Waterloo and Dubuque facilities eliminated the second line of local supervision, but the first line of day-to-day supervision remained. The Waterloo facility currently has a mobile site team supervisor, a fixed site team supervisor, and a hospital services supervisor, who directly oversee the Waterloo employees. The Dubuque facility has three team supervisors, a fixed site team supervisor, and a donor recruitment department team leader, who directly oversee the Dubuque employees. The first-line supervisors have the authority to recommend discipline.

Presumably as a result of these changes, especially the lay-offs and common scheduling, the frequency of interchange between facilities has clearly increased. The Regional Director's Decision in Case 33-RC-4281 states that in 1998, approximately two to three times per month, between one to five employees from the Dubuque collections department assisted with blood collections at either the Waterloo facility or a Waterloo mobile site. On these occasions, the Dubuque employees remained at the site throughout the collection process, typically a few hours, and the Waterloo nurse in charge of the site had authority over the Dubuque employees and could, if necessary, initiate disciplinary proceedings against the

Dubuque employees. Final review of the discipline, however, remained with the regional headquarters staff in Madison. The Petitioner elicited general testimony that the frequency of such assistance increased after the layoffs. Schedules in evidence for the month of February 2006 indicate that Dubuque collections employees worked with Waterloo employees at approximately 15 mobile sites throughout Iowa. As in the past, the Dubuque employees and Waterloo employees travel separately to the site, but remain at the site for the entire collection process and, while at the site, are presumably supervised by the Waterloo team supervisor in charge. Also during the month of February, on approximately 8 days, one or two Dubuque employees worked for a period of time at the Waterloo Center. Most of these shifts and some of the mobile assignments were for the limited purpose of training Waterloo employees on the Haemonetics machine, thus when training is complete, these training assignments will cease. The evidence does not establish that Waterloo employees work at the Dubuque facility or on Dubuque mobiles. However, both Waterloo and Dubuque employees assist employees from the other regional facilities with their mobiles when necessary. There is no evidence of any contact or interchange outside of the Collections department.

#### **IV. ANALYSIS**

The accretion doctrine's goal of promoting industrial stability places it in tension with the right of employees to freely choose their bargaining representative. Accordingly, the Board follows a restrictive policy in applying the accretion doctrine. *Safeway Stores, Inc.*, 256 NLRB 918 (1981); *The Wackenhut Corporation*, 226 NLRB 1085, 1089 (1976). To this end, the Board will not accrete employees who have historically been excluded from the unit unless there have been "recent and substantial changes" so as to create real doubt as to whether the employees continue to fall within the category-excluded or included-that they occupied in the past. *Bethlehem Steel Corp.*, 329 NLRB 243, 244 (1999); *Robert Wood Johnson University Hospital*, 328 NLRB 912, 913 (1999); *Copperweld Specialty Steel Company*, 204 NLRB 46 (1973).

Accretion is not appropriate here. The Waterloo employees clearly fall into the category of historically excluded employees, so the record must establish that “recent and substantial changes” have occurred. *Copperweld Specialty Steel Company*, supra. Two of the three changes relied upon by Petitioner, the layoffs and creation of the district manager position, are not especially recent, having occurred approximately 1½ years before the instant petitions were filed on January 5, 2006. The other change, the coordinated scheduling, occurred more recently but the record does not clearly establish the impact of that change as opposed to the impact of the layoffs. Most importantly, however, the changes are not sufficiently substantial so as to create any doubt as to the continued exclusion of the Waterloo employees.

As discussed above, the layoffs and the coordinated collections scheduling have increased the contacts between the Waterloo and the Dubuque employees, i.e. Dubuque collections employees more frequently assist Waterloo employees at the Waterloo fixed site and on Waterloo mobiles. However, this contact, albeit to a lesser degree, was present at the time of the original exclusion. The mere increase in contacts is not sufficiently substantial to call into question the placement of the Waterloo employees, especially where this has been ongoing since about July 2004, and there have been no significant changes to the job duties and functions of these employees since 1998. See *Bethlehem Steel*, supra at 244. The impact of this contact is further diminished by the fact that Waterloo employees do not assist in Dubuque or on Dubuque mobiles as well as the fact that collections employees from both facilities also assist other regional facilities. Moreover, any contact or interchange appears to be limited to collections employees.

The creation of the district manager position is also not a substantial change. The record fails to establish that this change has had any impact on the actual job duties and responsibilities of the Waterloo employees or any significant impact on their day-to-day work environment. Attendance at a staff meeting from time to time is insignificant and the hiring decisions were never made locally; prior to the district manager, the hiring decisions were made

at regional headquarters. As day-to-day supervision remains local, the change to an overall manager rather than two separate managers is not sufficiently consequential or substantial to negate the significance of the historical exclusion. See *Stafford-Lowdon Co.*, 253 NLRB 270 (1980).

The Board's decision in *Frito-Lay, Inc.*, 177 NLRB 820 (1969), relied upon by the Petitioner, is readily distinguishable. In *Frito Lay*, the Board vacated a prior certification due to changed circumstances which rendered the certified multi-location unit no longer appropriate. Although the changed circumstances involved the elimination of an area manager position, the changes also involved a nationwide reorganization which completely eliminated the administrative area upon which the finding of a separate and distinct community of interests for the multiple facilities was originally based. In contrast, the elimination of the separate second-line supervisors at Waterloo and Dubuque were not accompanied by any other reorganization nor does the record establish that the elimination had any impact on the day-to-day work life of the employees.

In further support of its position, Petitioner cites other factors which support a community of interests between the two facilities, such as the similarity in skills and duties; the similar wages, hours, and working conditions; the posting of vacancies at both facilities; and the centralized control of labor relations. However, these factors have prevailed since the original exclusion and thus are not pertinent to the unit issue herein. *Stafford-Lowdon Co.*, supra at 271. In any event, even considering these preexisting factors as well as the shared district manager and the increased interchange, they do not outweigh the separate local supervision, the geographical separation, and the historical separation so as to render the single facility unit inappropriate. Therefore, the Waterloo employees cannot be accreted to the Dubuque units and these petitions must be dismissed.

## **V. CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.<sup>7</sup>
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of the Act.
4. The Petitioner proposes to clarify the currently recognized bargaining units consisting of the professional employees at the Employer's Dubuque, Iowa facility and the non-professional employees at the Employer's Dubuque, Iowa facility to include, respectively, the professional and non-professional employees at the Employer's Waterloo, Iowa facility.
5. Clarification of the existing bargaining units is not appropriate under the circumstances herein.<sup>8</sup>

## **VI. ORDER**

The petitions filed herein are dismissed.

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<sup>7</sup> On page 15 of its brief, Petitioner makes mention of authorization cards tendered to the Subregion and later returned by the docketing clerk as evidence of majority. This is not a fact in evidence and I have accorded no weight to this statement. I further note that the Petitioner attempted to introduce evidence of employee support of the Union during the hearing and the Hearing Officer correctly sustained the Employer's objection to this line of questioning.

<sup>8</sup> On page 5 of the Petitioners brief the Petitioner asserts that the Region may order a self determination election in this proceeding and a new hearing would be unnecessary. For this proposition the Petitioner cites to *Southern California Water Co.*, 241 NLRB 771 (1979). The Board has specifically abandoned this doctrine. See *Southern California Water Co.*, 241 NLRB 771, 773, fn. 14 (1979).

## VII. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **April 7, 2006**.

Dated: March 24, 2006  
at: St. Louis, Missouri

/s/ Ralph R. Tremain  
Ralph R. Tremain, Regional Director,  
National Labor Relations Board Region 14  
and Subregion 33